IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

REGINALD T. GILBERTBEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 05-69E
	)	
UNITED STATES OF AMERICA, et al.	)	Judge Sean J. McLaughlin
	)	Magistrate Judge Susan Paradise Baxter
Defendant.	)	

DEFENDANT'S OPPOSITION TO PLAINTIFF'S
MOTION FOR MEDICAL TREATMENT

AND NOW, comes Defendants, the United States of America et al., by and through its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania and Jessica Lieber Smolar, Assistant United States Attorney, and respectfully move the Court to issue an Order dismissing the Plaintiff's Motion for Medical Treatment heretofore filed by Plaintiff Reginald Gilbertbey and to cancel the previously scheduled telephonic hearing on the following grounds:

This Court has held two telephonic hearings in response to Plaintiff's various motions, yet at no time have Defendants been served with any pleading in this case. Nevertheless, it appears that Plaintiff's most recent Motion for Medical Treatment seeks a Court Order for treatment of his dental and medical care. This motion was filed by Plaintiff on February 6, 2006. On December 15, 2005, Plaintiff transferred from the Federal Correctional Institution, McKean County, Pennsylvania (located in the Western District of Pennsylvania) to the United States Penitentiary (U.S.P.) in Allenwood, Pennsylvania (located in the Middle District of Pennsylvania). Petitioner's Motion is, therefore, filed in the wrong venue for the injunctive relief he seeks from his current institution. See

Declaration of Roberta M. Truman attached hereto.

Furthermore, Plaintiff has not exhausted his Administrative Remedies with regard to the treatment he seeks at U.S.P. Allenwood. He clearly must to address his concerns with the dental staff at U.S.P. Allenwood before bringing this to the attention of any Court. As such, Plaintiff's most recent Motion should be dismissed and the telephonic hearing scheduled for February 15, 2006 should be cancelled. A proposed order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
UNITED STATES ATTORNEY

/s/ Jessica Lieber Smolar

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading, was mailed, postage prepaid, this 10 th day of February, 2006, to the following:

Reginald T. Gilbertbey
Register No. 03854-078
United States Penitentiary Allenwood
P.O. Box 3000
White Deer, PA 17887

/s/ Jessica Lieber Smolar
JESSICA LIEBER SMOLAR
Assistant United States Attorney